

## **REMARKS**

### **I. Summary**

Applicant thanks Examiner Vezeris for the thorough examination of pending claims 5-8 and 36-38. In the Office Action mailed April 23, 2008 ("Office Action"), the following objections and/or rejections were made, each of which is addressed in more detail below:

- The priority date was miscalculated.
- The specification was objected to for content of the Abstract.
- Claim 8 was objected to because of formalities.
- Claims 5-8, 36 and 38 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication 2002/0052827 by Waelbroeck *et al.* ("Waelbroeck").
- Claim 37 was rejected under 35 U.S.C. § 103 as being obvious over Waelbroeck in view of U.S. Patent Application 2003/0069834 by Cutler ("Cutler").

Claims 5 and 6 have been amended to clarify the claimed subject matter, and not to distinguish the invention over the cited art. Support for the amendments may be found throughout the application. No new matter has been added. Applicant respectfully submits that the pending claims are patentable for at least the following reasons:

### **II. Related Applications**

The present application is related to commonly assigned and presently pending U.S. patent application serial nos. 11/417,540 and 11/417,680. Applicant respectfully requests the Examiner to review the claims and prosecution history of the related applications as they contain common subject matter.

In addition, for the purposes of the present application, Applicant hereby rescinds any disclaimer of claim scope that may have been (or may be) made during the prosecution of any related application. Applicant respectfully requests examination of each claim in the present application according to the language of the claim, and prior art as set forth in the MPEP, and not importing statements made by the Applicant in the prosecution of any related application.

III. Clarification of Priority

Applicants respectfully submit that the proper priority date for the application is **June 18, 2002**. The International Application (WO 03/107121) was filed under the PCT convention on June 11, 2003, which is less than one year from the date that the provisional application was filed (June 18, 2002). Since the International Application designated the US at that time, it was pending in the US at the same time as the provisional application to which it claims priority. (35 U.S.C. §§ 363 and 365). Because the applications were copending, the International Application claims the benefit of the provisional application, which is **June 18, 2002**. (35 U.S.C. § 120).

The MPEP and the Patent Cooperation Treaty do not indicate that a National II filing must occur within a time frame based 18 months after the filing of the International Application. (see MPEP 1893). Under the Patent Cooperation Treaty, deadlines for filing the national stage application from an International Application are determined based off the earliest priority date, which in the present application is 30 months after the earliest priority date of the provisional application filing. (MPEP 1801 and 1893). The national stage application was filed on December 14, 2004, before the 30-month deadline. Therefore, the priority for the application is **June 18, 2002**. Applicant respectfully request examination of the Application with the proper priority date of June 18, 2002.

IV. Specification Objections

The Office Action includes a section indicating that the Specification has been objected to, but does not include a reason for the Objection. The section includes reminders regarding the Abstract, but does not point out any deficiency of the Abstract. Nonetheless, Applicant has amended the Abstract to clarify the patent. Applicant respectfully requests withdrawal of the objection. Should questions remain, the Examiner is invited to contact Applicant's representative Joseph Flerlage at 312-368-6065.

V. Claim Objection

The objection to claim 5 has been obviated. Withdrawal of the objection is respectfully requested.

VI. Claim Rejection Under 35 U.S.C. § 102

The Office Action indicates that claims 5-8, 36 and 38 are rejected under 35 U.S.C. § 102(b) as being anticipated by Waelbroeck. Applicants submit that Waelbroeck does not anticipate the claims.

*Independent Claim 5*

As discussed, the proper priority for the application is June 18, 2002, and therefore, Waelbroeck is not prior art under 35 U.S.C. § 102(b) because Waelbroeck was not was not in public use or on sale in the U.S. more than one year prior to the priority date. Accordingly, Applicants submit that the claims are not anticipated under 35 U.S.C. § 102(b), and therefore, respectfully request removal of the rejection.

Waelbroeck also does not disclose or suggest features of claim 5. That is, claim 5 relates to a method for displaying securities market transaction information where both transaction information having a price for a selected security and order book information regarding open orders for a selected security are received. Whether each of a user-selected range of trades in the transaction information was seller-initiated or buyer-initiated is determined in response to receiving the transaction information and order book information. For each trade of a user-selected security within the user-selected, an indicium that represents the price of the trade is displayed. The indicium distinguishes between buyer-initiated and seller-initiated trades. A subset of the order book information relating to the user-selected security is displayed adjacent to the indicia. Therefore, both transaction information and “order book information regarding open orders for the selected security” are received and used to display the indicium.

On the other hand, Waelbroeck relates to directing and executing certified trading interests. (Title). In Waelbroeck, data related to a market participant for a security is received and stored. (Abstract). Based on an order query received from one of the market participants, a dissemination list of market participants for the security is computed and transmitted to the entity who has the privilege of receiving the list. (Abstract). Users can deliver notifications to others that have traded with them or who have sent Certified Trading Interests (CTI) notifications. (par. [0185]). A GUI lists trades and notifications for the user to click to select targets for the notification. (par. [0185]). One part of the GUI screen represents CTI notifications and the other

contains lists of executions. (par. [0185]). Therefore, the screen in Waelbroeck includes only information related to past information for a CTI, or past transactions. (Figure 9).

Waelbroeck does not disclose or suggest:

- receiving order book information regarding open orders for a selected security,
- determining responsive to said transaction information and said order book information whether each of a user-selected range of trades represented in said transaction information was seller-initiated or buyer-initiated, and
- displaying at least a subset of said order book information relating to said user-selected security adjacent said indicia.

As discussed, Waelbroeck relates to receiving and displaying only past or dated information related for a security. (Figure 9). That is, Waelbroeck displays CTI which were “received in the past,” and a list of executions which represent transactions that also occurred in the past. (par. [0185]). In Waelbroeck, there is no information received related to an order book, in particular an order book having open orders for the selected security. Instead, the GUI in Waelbroeck displays a selection of check boxes for past CTI and transactions to allow a user to select targets to which a notification is sent. (par. [0185]).

Applicant also submits that Waelbroeck does not disclose or suggest determining whether each of a user-selected range of trades was seller-initiated or buyer initiated in response to receiving transaction information and order book information. As discussed, Waelbroeck does not disclose or suggest receiving order book information as included in claim 5. Therefore, determining whether a user-selected range of trades was seller- or buyer-initiated in response to receiving order book information is not disclosed or suggested by Waelbroeck. In addition, Waelbroeck does not disclose determining whether a trade was seller-initiated or buyer-initiated. That is, there is no indication or suggestion in Waelbroeck about determining who initiated a trade. Waelbroeck discloses showing information about counterparties, including whether the counterparty was a buyer or a seller, but Waelbroeck does not disclose who initiated the trade. (Figure 9). In Waelbroeck, the trade could be initiated by either side and there is no indication. The only indication is whether the counterparty was a buyer or seller. Indeed, Waelbroeck asserts that the GUI “choos[es] all contra parties for a day’s trading activity.” Accordingly, the

parties shown in the figure of the GUI are counterparties, but the system does not indicate whether the trade “was seller-initiated or buyer-initiated.”

Applicant further submits that Waelbroeck does not disclose or suggest displaying a subset of the order book information related to a user-selected security. As pointed out, Waelbroeck does not disclose or suggest receiving order book information as included in claim 5. Therefore, Waelbroeck does not disclose or suggest displaying a subset of order book information. Indeed, there is no disclosure of displaying a subset of information related to a user-selected security in Waelbroeck.

As such, Applicants submit that features of claim 5 are not disclosed or suggested by Waelbroeck. Therefore, Waelbroeck does not anticipate claim 5. Applicants respectfully request withdrawal of the rejection and earnestly solicit allowance of the application.

#### *Claims Dependent from Claim 5*

The claims dependent from claim 5 also include features not disclosed or suggested by Waelbroeck, and are therefore allowable. While the dependent claims should be allowable for the same reasons as independent claim 5, the dependent claims are further allowable due to additional features they recite. For example, claims 6, 7 and 8 include features of a two-dimensional chart which is not disclosed or suggested by Waelbroeck. In addition, claim 6 clarifies the axis of the two-dimensional chart, and claim 8 includes the feature of displaying a subset of an order book where a “proposed transaction price” is aligned with a position on the first axis. Waelbroeck does not disclose the axis of claim 6 or the proposed transaction price being aligned with a position on the first axis of claim 8. In addition, claim 36 indicates that the order book includes both at least one bid and at least one offer. As indicated in the Office Action, Waelbroeck does not disclose receive both bids and offer, because Examiner notes that “the fill price is either a bid price or an offer price” and is not an order book. Withdrawal of the rejection is requested of the claims dependent from claim 5 is requested.

#### VII. Claim Rejection Under 35 U.S.C. § 103

Claim 37 depends from claim 5 and is deemed unpatentable under 35 U.S.C. § 103 as obvious over Waelbroeck in view of Cutler. As discussed, features of claim 5 are entirely missing from Waelbroeck, and therefore, Waelbroeck also does not disclose or suggest claim 37.

Cutler does not disclose or suggest features of claim 37 that are missing from Waelbroeck. Accordingly, Applicants submit that claim 37 would not be obvious to one skilled in the art over Waelbroeck and Cutler either singularly or in combination. Accordingly, Applicants submit that the claims would not be obvious under 35 U.S.C. § 103, and therefore, respectfully request removal of the rejection.

VIII. Conclusion

In view of the foregoing, Applicant respectfully submits that the claimed invention as amended is not disclosed or suggested by the cited art. Accordingly, favorable reconsideration and withdrawal of the rejections are respectfully requested.

In the event that the Office maintains the rejection of the claims, Applicant respectfully requests that the Office, in the interest of expedited prosecution, identify, with the specificity required to establish a prima facie case of obviousness, where in the cited reference is an alleged disclosure of the aforementioned features.

If Examiner believes that further dialog would expedite consideration of the application, Examiner is invited to contact Trading Technologies in-house Patent Counsel Joseph W. Flerlage at 312-698-6065, or the undersigned attorney or agent.

Respectfully submitted,  
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